

## Surface Transportation Board, DOT

## § 1133.2

any such petition disclose a need for accelerated action, such action may be taken before expiration of the time allowed for reply. In all other respects, such petitions and replies thereto will be governed by the rules of general applicability of the Rules of Practice.

### PART 1133—RECOVERY OF DAMAGES

Sec.

1133.1 Freight bill filing requirement under modified procedure.

1133.2 Statement of claimed damages based on Board findings.

AUTHORITY: 49 U.S.C. 721.

SOURCE: 47 FR 49575, Nov. 1, 1982, unless otherwise noted.

#### § 1133.1 Freight bill filing requirement under modified procedure.

If, under modified procedure (for general rules governing modified procedure, see part 1112), an award of damages is sought, complainant should submit the paid freight bills or properly certified copies with its statement when there are not more than 10 shipments; if more than 10 shipments are involved, complainant should retain the documents.

#### § 1133.2 Statement of claimed damages based on Board findings.

(a) When the Board finds that damages are due, but that the amount cannot be ascertained upon the record before it, the complainant should immediately prepare a statement showing details of the shipments on which damages are claimed, in accordance with the following form:

Claim of \_\_\_\_\_ under decision of the Surface Transportation Board in Docket No. \_\_\_\_\_.

\_\_\_\_\_.  
\_\_\_\_\_. Date of shipment.  
\_\_\_\_\_. Date of delivery or tender of delivery.  
\_\_\_\_\_. Date charges were paid.  
\_\_\_\_\_. Car (or vessel) initials.  
\_\_\_\_\_. Car (or voyage) number.  
\_\_\_\_\_. Origin.  
\_\_\_\_\_. Destination.  
\_\_\_\_\_. Route.  
\_\_\_\_\_. Commodity.  
\_\_\_\_\_. Weight.  
\_\_\_\_\_. Rate.  
\_\_\_\_\_. Amount.  
\_\_\_\_\_. Rate.

\_\_\_\_\_. Amount.  
\_\_\_\_\_. Reparation on basis of Board's decision.

Charges paid by.<sup>1</sup>

Claimant hereby certifies that this statement includes claims only on shipments covered by the findings in the docket above described and contains no claim for reparation previously filed with the Board by or on behalf of claimant or, so far as claimant knows, by or on behalf of any person, in any other proceedings, except as follows: (Here indicate any exceptions, and explanation thereof).

\_\_\_\_\_  
(Claimant)  
By \_\_\_\_\_  
(Practitioner)  
\_\_\_\_\_  
(Address)  
\_\_\_\_\_  
(Date)

Total amount of reparation \$ \_\_\_\_\_. The undersigned hereby certifies that this statement has been checked against the records of this company and found correct.

Date \_\_\_\_\_ Concurred<sup>2</sup> in: \_\_\_\_\_ Company  
\_\_\_\_\_. Company, Defendant Collecting Carrier, Defendant<sup>3</sup>.  
By \_\_\_\_\_, Auditor. By \_\_\_\_\_, Auditor.

(b) The statement should not include any shipment not covered by the Board's findings, or any shipment on which complaint was not filed with the Board within the statutory period. The filing of a statement will not stop the running of the statute of limitations as to shipments not covered by complaint or supplemental complaint. If the shipments moved over more than one route, a separate statement should be prepared for each route, and separately numbered, except that shipments as to which the collecting carrier is in each instance the same may be listed in a single statement if grouped according to routes. The statement, together with the paid freight bills on the shipments, or true copies thereof, should then be forwarded to the carrier which collected the charges, for verification and certification as to its accuracy. If the statement is not forwarded immediately to the collecting carrier for

<sup>1</sup>Here insert name of person paying charges in the first instance, and state whether as consignor, consignee, or in what other capacity.

<sup>2</sup>For concurring certificate in case collecting carrier is not a defendant.

<sup>3</sup>If not a defendant, strike out the word "defendant."

certification, a letter request from defendants that forwarding be expedited will be considered to the end that steps be taken to have the statement forwarded immediately. All discrepancies, duplications, or other errors in the statements should be adjusted by the parties and corrected agreed statements submitted to the Board. The certificate must be signed in ink by a general accounting officer of the carrier and should cover all of the information shown in the statement. If the carrier which collected the charges is not a defendant in the case, its certificate must be concurred in by like signature on behalf of a carrier defendant. Statements so prepared and certified shall be filed with the Board whereupon it will consider entry of a decision awarding damages.

[47 FR 49575, Nov. 1, 1982, as amended at 64 FR 53268, Oct. 1, 1999]

## PART 1135—RAILROAD COST RECOVERY PROCEDURES

Sec.

1135.1 Quarterly adjustment.

1135.2 Revenue Shortfall Allocation Method: Annual State tax information.

AUTHORITY: 5 U.S.C. 553, and 49 U.S.C. 721, 10701, 10704, 10708, and 11145.

### § 1135.1 Quarterly adjustment.

To enable the Board to publish the rail cost adjustment factor (RCAF) as required by 49 U.S.C. 10708, the Association of American Railroads (AAR) shall calculate and file with the Board by the fifth day of December, March, June and September of each year its forecast for the next calendar quarter of the all-inclusive index of railroad costs and calculate and file the RCAF unadjusted for changes in railroad productivity as prescribed in *Railroad Cost Recovery Procedures*, 1 I.C.C.2d 207 (1984), and any subsequent amendments thereto. In addition, the AAR shall calculate the productivity-adjusted RCAF as prescribed in *Railroad Cost Recovery Procedures*, 5 I.C.C.2d 434 (1989), and any subsequent amendments thereto. The AAR shall submit workpapers detailing its calculations. The Board will review and verify the AAR submissions and make its RCAF publication by the twentieth

day of December, March, June and September of each year.

[67 FR 55166, Aug. 28, 2002]

### § 1135.2 Revenue Shortfall Allocation Method: Annual State tax information.

(a) To enable the Board to calculate the revenue shortfall allocation method (RSAM), which is one of the three benchmarks that are used to determine the reasonableness of a challenged rate under one standard of the Board's *Simplified Standards for Rail Rate Cases*, STB Docket No. 646 (Sub-No. 1) (STB served Sept. 5, 2007), the Association of American Railroads (AAR) shall file with the Board, on or before May 30, the weighted average State tax rates applicable to each Class I railroad for the previous year. The AAR shall submit workpapers detailing its calculations.

(b) The Board will serve and publish a notice of the filing in the FEDERAL REGISTER within 10 days of the AAR's filing.

(c) Any interested party may file comments on the AAR's filing within 30 days of the notice described in paragraph (b) of this section. If no comments are received within 30 days, the Board will automatically adopt the AAR's weighted average State tax rates on the 31st day. If comments opposing the AAR's calculations are received, the AAR's response will be due within 20 days of the comments. The Board will review the submission and comments and serve a decision within 60 days from the date of the close of the record that either accepts, rejects, or modifies the AAR's railroad-specific tax information.

[75 FR 8818, Feb. 26, 2010]

## PART 1139—PROCEDURES IN MOTOR CARRIER REVENUE PROCEEDINGS

### Subpart A—Common Carriers of General Commodities

Sec.

1139.1 Application.

1139.2 Traffic study.

1139.3 Cost study.

1139.4 Revenue need.

1139.5 Affiliate data.